Long-Awaited Tax Reform Includes Significant Estate Planning-Related Changes

Foster Swift E-Blast
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On December 20, 2017, the U.S. Senate and U.S. House of Representatives approved the Tax Cuts and Jobs Act ("Tax Reform"), and sent a final bill to President Trump for his signature.

The Tax Reform bill marks the most extensive overhaul of the U.S. Income Tax Code in over 30 years, and will have a dramatic and immediate impact on the ways businesses and individuals plan for and pay taxes. The bill includes significant cuts to the corporate tax rate and creates new deductions for other businesses. It also reduces income tax rates in 2018 for individuals and restructures individual deductions.

There are also meaningful changes to estate planning-related tax provisions. Although initial tax plan discussions considered complete elimination of taxes on estates and generation-skipping transfers, the final bill keeps the estate tax and generation-skipping transfer tax in place, but doubles the exemption amount. Under the new Tax Reform, the exemption doubles from $5.6 million to $11.2 million in 2018. This means that an individual will have the ability to transfer $11.2 million estate tax free starting in 2018. The exemption will increase with inflation. The increased exemption is scheduled to sunset in 2026.

The gift tax will continue with the annual exclusion amount being $14,000 in 2017 and $15,000 in 2018. As with the estate and generation-skipping transfer taxes, the lifetime exemption amount for gifts will double under the new bill, meaning that an individual would be able to transfer $11.2 million gift tax free in 2018 as opposed to $5.6 million.

As is the case with the current law, assets included in a decedent's estate "will continue to receive an adjustment to basis equal to the fair market value at death (a stepped-up basis)."

While we're only days away from the new tax bill going into effect on January 1, 2018, there are things that you can do now, in 2017, to minimize taxes in light of the new legislation. For example, if you are considering making any wealth transfers that may result in a gift tax liability, you may want to delay these gifts until 2018 to capitalize on the increased gift exemption. There's a good chance that any gift transfers you made, or still plan to make, in 2017 still fall under existing exclusions or exemptions, but it's a good idea to talk to a tax professional to determine the impact of any actions you plan to take before year's end.

If you have any questions, please contact a Foster Swift Estate Planning attorney. We are here to help. In the interim, we will continue to monitor the situation and keep you informed of any new developments.